

Political Campaign Finance Ordinance  
Ordinance No. 1745

An ordinance of the City Of Santa Clara enacting a new chapter 2.74 to be added to "the code of the city of Santa Clara, California" to regulate political campaign contributions and expenditures

Be it ordained by the city of Santa Clara, as follows:

Section 1: That "The Code of the City of Santa Clara, California," (City Code) is in the process of recodification. A new numbering system will be in effect after adoption of the new City Code. The section numbers in this ordinance refer to the new numbering system.

Section 2: That a new Chapter 2.74 (entitled "Political Campaign Contributions") is added to "The Code of the City of Santa Clara, California" to read as follows:

Chapter 2.74  
Political Campaign Finance Reform Act

Article 1.  
Findings and Purposes

2.74.10 Title.

2.74.11 In 1974, the voters of California approved a far reaching initiative measure commonly known as Proposition 9. The provisions of Proposition 9 were codified into the California Government Code as Title 9 (entitled "Political Reform" - §81000 et seq.). This enactment is commonly referred as the "Political Reform Act of 1974," hereinafter the "Political Reform Act." Among other things, the state Political Reform Act subjected all public officials to rigorous conflicts of interests provisions and imposed explicit regulation and accountability for political campaign contributions and expenditures on elected officials.

This Chapter 2.74 shall be known as the City of Santa Clara Political Campaign Reform Act ("Act"). It is intended to supplement the provisions of the state Political Reform Act, as the state law is amended from time to time. In some instances, the Act is intended to be a convenient, single source reminder of the applicable state law. In other instances, the provisions of the Act are expressly intended to be more restrictive than the state law.

## 2.74.020 Findings and Declarations.

In enacting this Chapter 2.74, the following Findings and Declarations are adopted:

Monetary contributions to political campaigns are a legitimate form of participation in the American political process, but the financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence on the election of candidates.

The rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger percentages of money from individuals and interest groups with a specific financial stake in matters before the City Council. This has caused a public perception that votes are being improperly influenced by monetary contributions to candidates. This perception is undermining the credibility and integrity of the governmental process.

High campaign costs are forcing officeholders to spend more time on fundraising and less time on the public's business. The periodic pressure to raise contributions distracts officeholders from urgent governmental matters.

The integrity of the governmental process, the competitiveness of campaigns and public confidence in local officials are all diminishing.

Receipt of campaign contributions and campaign expenditures in municipal election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed about a candidate's sources of campaign contributions.

## 2.74.030 Purpose of this Chapter 2.74.

This Chapter 2.74 is to be liberally construed to effectuate the following purposes:

Ensure that individuals and interest groups in the City have a fair and equal opportunity to participate in the municipal elective and governmental processes.

Reduce the influence of large contributors with a specific financial stake in matters before the City Council, thus countering the perception that decisions are influenced more by the size of contributions than the best interests of the people of the City.

Encourage candidates to limit their overall expenditures in campaigns, thereby reducing the pressure on candidates to raise large campaign war chests for defensive purposes, beyond the amount necessary to communicate reasonably with voters.

Increase the value of smaller contributions to candidates.

Reduce the fund raising advantage of incumbents and thus encourage competition for elective office.

Allow candidates and officeholders to spend a lesser portion of their time on fund raising and a greater portion of their time dealing with issues of importance to their constituents.

Improve the disclosure of contribution sources in reasonable and effective ways.

Help restore public trust in governmental electoral institutions.

## Article 2 Definitions

This page amended by the addition of "contribution" 82015 of the Govt. Code. 2.74.040 Interpretation of this Chapter 2.74.

Because of the thoroughness of the state Political Reform Act statutory scheme, unless a term is specifically defined in this Chapter 2.74, or the contrary is stated (or clearly appears from the context), the definitions set forth in Chapter 2 ("Definitions" - §82000 et seq. of the Government Code) of the state Political Reform Act shall govern the interpretation of the provisions of this Chapter 2.74. For example, "Contribution" is defined by §82015 of the Government Code.

"Election cycle" means that period commencing on May 1st of a general election year and concluding on December 31st of that same year. If a special election is conducted, the election cycle will commence on the first day of the month at least six months before the election and shall conclude on the last day of the month following the election (i.e., assume a March date is used for a City special election for an elective office; September 1st (the first day of the month at least six months before the election date) would be the first day of the election cycle and April 30th (the last day of the month following the election) would be the last day of the election cycle).

"Time restrictions on contributions and expenditures" means the last day a contribution can be deposited is ten (10) calendar days before the election date (i.e., a November 2nd election would make October 23rd the last day to deposit a contribution). Payment of campaign bills shall terminate on the last day of the month following the election (i.e., a November election would require that all bills be paid by December 31st - the last day of the month following the election).

### Article 3

#### Contribution Limits

##### 2.74.050 Limits on Contributions From Persons.

No person shall make to any candidate for office and the controlled committee of such a candidate and no such candidate and the candidate's controlled committee shall accept from any such person a contribution or contributions totaling more than two hundred fifty dollars (\$250.00) during the election cycle for each election in which the candidate is on the ballot or is a write-in candidate. (See below, Article 4 "Voluntary Expenditure Limits" for the exception to this two hundred fifty dollar (\$250) contribution limit. Acceptance of the Voluntary Expenditure Limits permits contributions of five hundred dollars (\$500).

No person shall make to any committee which supports or opposes any candidate and no such committee shall accept from each such person a contribution or contributions totaling more than two hundred fifty dollars (\$250.00) during the election cycle for each election in which the candidate is on the ballot or is a write-in candidate.  
Authority is Prop 208's §85307(c).

Nothing in this Chapter 2.74 shall prohibit a candidate from making unlimited contributions to his/her own campaign.

Candidates shall be bound by the "Time restrictions on contributions and expenditures" defined in section 2.74.040 b.

##### 2.74.60 Prohibition on Transfers of Campaign Contribution Funds.

2.74.61 No candidate and no committee controlled by a candidate or officeholder shall make any contribution to any other candidate running for office or to any committee supporting or opposing a candidate for office.

#### 2.74.070 Return of Contributions.

A contribution shall not be considered to be received if it is not negotiated, deposited or utilized, and, in addition, if it is returned to the donor within fourteen (14) calendar days of receipt.

#### 2.74.080 Aggregation of Payments.

For purposes of the contributions limits in this Article 3 ("Contribution Limits"), the following shall apply:

All payments made by a person 1, as broadly defined in the Political Reform Act, whose contributions or expenditure activity is financed, maintained or controlled by any corporation, labor organization, association, political party or any other person or committee, including any parent, subsidiary, branch, division, department or local unit of the corporation, labor organization, association, political party or any other person, or by any group of such persons shall be considered to be made by a single person, committee or small contributor political action committee.

Two or more entities shall be treated as one person when any of the following circumstances apply:

The entities share the majority of members of their boards of directors.

The entities share two or more officers.

The entities are owned or controlled by the same majority shareholder or shareholders.

The entities are in a parent-subsidiary relationship.

An individual and any general partnership in which the individual is a partner, or an individual and any corporation in which the individual owns a controlling interest, shall be treated as one person.

No committee which supports or opposes a candidate for office shall have as officers individuals who serve as officers on any other committee which supports or opposes the same candidate. No such committee shall act in concert with, or solicit or make contributions on behalf of any other committee. This subdivision shall not apply to treasurers of committees if these treasurers do not participate in or control in any way a decision on whether the candidate or candidates receive contributions.

#### 2.74.090 Loans from Third Party Sources.

A loan shall be considered a contribution from the maker and the guarantor of the loan and shall be subject to the contribution limits (two hundred fifty dollars (\$250.00) or five hundred dollars (\$500.00) if the Voluntary Expenditure Limit is accepted) of this chapter.

Every loan to a candidate or the candidate's controlled committee shall be by written agreement and shall be filed with the candidate's or committee's campaign statement on which the loan is first reported.

The proceeds of a loan made to a candidate by a commercial lending institution in the regular course of business on the same terms available to members of the public and which is secured or guaranteed shall not be subject to the contribution limits of this chapter.

Extensions of credit (other than commercial loans pursuant to section 2.74.90(c)) for a period of more than thirty (30) calendar days are subject to the contribution limits of this chapter.

#### 2.74.100 Family Contributions.

Contributions by a husband and wife shall be treated as separate contributions and shall not be aggregated.

Contributions by children under eighteen (18) years of age shall be treated as contributions by their parents and attributed proportionately to each parent (one-half to each parent or the total amount to a single custodial parent).

#### 2.74.110 Money Received by Officials Treated as Contributions, Income or Gifts.

Any funds received by an elected official or candidate running in the City or any committee controlled by such an official or candidate shall be considered either a campaign contribution, income or a gift. All campaign contributions received by such persons shall be subject to the provisions of this Chapter 2.74 unless such campaign contributions are used exclusively for elections held outside the City. All income and gifts shall be subject to the disqualification provisions of the state Political Reform Act.

#### 2.74.120 One Campaign Committee and One Checking Account Per Candidate.

A candidate shall have no more than one campaign committee and one checking account out of which all expenditures shall be made. This section shall not prohibit the establishment of savings accounts, but no qualified campaign expenditures shall be made out of these accounts.

#### 2.74.130 Limit on Cash Contributions; Cash Expenditures.

This section is a reminder of a portion of the provisions of Government Code §84300 pertaining to cash:

No contribution of one hundred dollars (\$100) or more shall be made or received in cash.

No expenditure of one hundred dollars (\$100) or more shall be made or received in cash.

The remaining provisions of Government Code §84300 shall remain in effect.

#### 2.74.140 Limit on Anonymous Contributions. Govt. Code 84304 - \$100

No person shall make an anonymous contribution(s) to a candidate or controlled committee totaling one hundred dollars (\$100.00) or more in any election cycle. An anonymous contribution of one hundred dollars (\$100.00) or more shall not be kept by the intended recipient, but shall instead be promptly paid to the City Clerk for deposit in the general fund of the City.

#### 2.74.150 Contributions on Behalf of Others Prohibited.

No contribution shall be made, directly or indirectly, or anything belonging to another person or received from another person on the condition that it (or part of it) be used as a contribution. No contribution shall be made, directly or indirectly, by any person on behalf of another person.

### Article 4

#### Voluntary Expenditure Limits

#### 2.74.160 Candidate Acceptance or Rejection of Expenditure Limits.

Each candidate for office, at the time of filing his/her nomination papers, shall file a statement of acceptance or rejection of the Voluntary Expenditure Limit of twenty-five thousand dollars (\$25,000), as adjusted from time to time for the cost of living. The adjustment to the Voluntary Expenditure Limit shall be by City Council resolution adopted at least nine (9) months

prior to each election based on the Consumer Price Index as determined by the United States Department of Labor, Bureau of Consumers (CPI-U), San Francisco, Oakland, San Jose subgroup - all items, or successor index.

For candidates accepting the voluntary expenditure limits, the following advantages apply:

The candidate may accept a contribution of up to five hundred dollars (\$500.00) from a person/contributor.

The City will pay for one-half (1/2) the cost of the candidate's Statement of Qualifications printed in the ballot pamphlet.

The sample ballot will contain a designation that the candidate was a participant in the Voluntary Expenditure Limit program.

The candidate's name will be listed in a newspaper of general circulation indicating they have been a participant in the Voluntary Expenditure Limit program.

The fact of a candidate's participation in the Voluntary Expenditure Limit program will be disseminated for public information on the City's website, government access cable television channel, public libraries, public offices, etc.

A candidate who agrees to accept the Voluntary Expenditure Limit in this Article 4 may not change that decision, except that if an opposing candidate files a statement of rejection of the Voluntary Expenditure Limit, the candidate may rescind his/her acceptance of the Voluntary Expenditure Limit within seventy-two (72) hours of the final date that nomination papers can be filed, provided the candidate has not accepted any contribution(s) in an amount(s) greater than the Voluntary Expenditure Limit set forth hereinabove.

A candidate who agrees to accept the Voluntary Expenditure Limit in this Article 4, shall not exceed the expenditure limit of twenty-five thousand dollars (\$25,000), as adjusted from time to time. If the expenditure limit is exceeded, the candidate is in breach of this Chapter 2.74 and the candidate shall face possible fines, loss of office and potential criminal prosecution by the District Attorney's office. Violations of this Chapter 2.74 may be punished as follows:

Pursuant to prosecutorial discretion, the enforcement of violations of the provisions of this Chapter may be prosecuted as an infraction or misdemeanor.



(a) Infraction/Misdemeanor. Any person who violates any of the provisions of this Chapter 2.74 shall be guilty of an infraction and/or misdemeanor.

(b) Prosecution. Every violation of this Chapter 2.74 shall be a misdemeanor; provided, however, that where the prosecutor has determined that such action would be in the best interest of justice, the prosecutor may specify in the accusatory pleading or citation, that the violation shall be prosecuted as an infraction.

(c) Penalty for Infraction. Each and every violation of this Chapter 2.74 which is deemed an infraction is punishable by a fine not exceeding two hundred and fifty dollars (\$250.00).

(d) Penalty for Misdemeanor. Each and every violation of this Chapter 2.74 which is deemed a misdemeanor is punishable by a penalty of not more than one thousand dollars (\$1,000.00), or by imprisonment in the City or County jail for a period of not exceeding six months, or, by both penalty and imprisonment."

Additionally, the candidate shall immediately notify all opponents and the City Clerk by telephone and by confirmation in writing (FAX, E-mail, telegram, etc.) the day the expenditure limit is exceeded.

#### 2.74.170 Effect of Violation on Outcome of Election.

If a candidate is found by a court (or jury) to have violated any provision of this Chapter 2.74, the court shall make a determination as to whether the violation had a material effect on the outcome of the election. If the court finds the violation did have a material effect on the election, the following will apply.

If the court determination becomes final before the date of the election, the votes for such candidate shall not be counted and the election shall be determined on the basis of the votes cast for the other candidates in that race;

If the court determination becomes final after the date of the election, and if such candidate was declared to have been elected, then such candidate shall not assume office, the office shall be deemed vacant and shall be filled as otherwise provided in the City Charter and City Code;

If the court determination becomes final after the candidate has assumed office, then the candidate shall be removed from office, the office shall be

deemed vacant and shall be filled as otherwise provided in the City Charter and City Code;

The court may determine the candidate shall be ineligible to hold any elective City office for a period of four (4) years after the date of such court determination that a violation occurred.

In a criminal proceeding, a plea of nolo contendere shall form the basis for a court determination of the impact of the violation of Chapter 2.74.

2.74.180 Extinguishment of expenditure limit.

If a candidate violates the campaign expenditure limit of this Article 4, the expenditure limit shall no longer be applicable to the other candidates running for the same office.

## Article 5

### Enforcement

2.74.190 Civil Actions.

Any person who intentionally or negligently violates any provision of this Chapter 2.74 shall be liable in a civil action brought by a person residing within the City for an amount not more than three (3) times the amount of the unlawful contribution or expenditure.

If two or more persons are responsible for any violation, they shall be jointly and severally liable.

In determining the amount of liability, the court may take into account the seriousness of the violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action, the plaintiff shall receive fifty percent (50%) of the amount recovered. The remaining fifty percent (50%) shall be deposited into the general fund of City. In an action brought by the District Attorney, the judgment shall be paid to the general fund of the County of Santa Clara.

No civil action alleging a violation of any provision of this Act shall be filed more than two (2) years after the date the violation occurred.

The provisions of section 2.74.170 (entitled "Effect of Violation on Outcome of Elections") shall apply.

2.74.200 Injunctive Relief.

Any person residing in the City may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this Chapter 2.74.

#### 2.74.210 Cost of Litigation.

The court may award to a plaintiff or defendant who prevails in any action authorized by this Chapter 2.74, costs of litigation, including reasonable attorneys' fees.

#### 2.74.220 Disqualification.

In addition to any other penalties prescribed by law, if an official receives a contribution in violation of this Chapter 2.74, the official shall not be permitted to make, participate in making or in any way attempt to use his/her official position to influence a governmental decision in which the contributor has a financial interest. The provisions of Government Code §87100 et seq., and the regulations of the Fair Political Practices Commission shall apply to interpretations of this Section.

### Article 6

#### Additional Disclosure Requirements

#### 2.74.240 Additional Pre-Election Campaign Statement.

The Political Reform Act provides for various campaign statements to be filed on dates determined by the Fair Political Practices Commission. The second pre-election statement has a filing deadline approximately three (3) weeks before the election. In addition to the state required pre-election campaign statements, seven (7) calendar days before the election, all candidates shall submit to the city, on a city form, a campaign disclosure statement.

#### 2.74.250 Disclosure of Occupation and Employer of Contributor.

No contribution shall be deposited into a campaign checking account unless the name, address, occupation and employer of the contributor is on file in the records of the recipient of the contribution.

#### 2.74.260 Submission of Typed Campaign Disclosure Statements.

All submissions of campaign disclosure statements shall be submitted typed or in an electronic media form acceptable to the City Clerk. It is the intent of the City to give the voting public access to the campaign disclosure statements through the use of modern media resources.

Article 7  
Agency Responsibility  
2.74.270 Duties of the Local Filing Officer.

The local filing officer shall:

Prescribe the necessary forms for filing the appropriate statements.

Article 8  
Miscellaneous Provisions  
2.74.280 Applicability of Other Laws.

Nothing in this Chapter 2.74 shall exempt any person from applicable provisions of any other laws of this state or the City."

Section 3: Constitutionality, severability.

If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s) or word(s) be declared invalid.

Section 4: Savings Clause.

The changes provided for in this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or accruing before the effective date of this ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this ordinance.

Section 5: Effective Date.

This ordinance shall take effect thirty (30) days after its final adoption; however, prior to its final adoption it shall be published in accordance with the requirements of Section 810 of "The Charter of the City of Santa Clara, California."

Passed for the purpose of publication this 14th day of December 1999, by  
the following vote:

Ayes: Councilors: Diridon, Mahan, Matthews, McLemore, Parle and Mayor  
Nadler

Noes: Councilors: None

Absent: Councilors: Gillmor

Abstained: Councilors: None

Attest: \_\_\_\_\_

J. E. Boccignone

City Clerk

City of Santa Clara

Finally passed and adopted by the city council of the City of Santa Clara this  
11th day of January 2000, by the following votes:

Ayes: Councilors: Diridon, Mahan, Matthews, McLemore, and Parle

Noes: Councilors: None

Absent: Councilors: Gillmor and Mayor Nadler

Abstained: Councilors: None

Attest: \_\_\_\_\_

J. E. Boccignone

City Clerk

City of Santa Clara

<sup>1</sup> 82047: "Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee and any other organization or group of persons acting in concert.